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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,424	09/10/2003	Mark Andrew Montz	200309022-01	5804

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HEWLETT PACKARD COMPANY
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

CUMMING, WILLIAM D

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,424

Applicant(s)

MONTZ, HELDENBRAND, &
ASKERUP

Examiner

WILLIAM D. CUMMING

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-14 and 18-45 is/are rejected.
- 7) ☒ Claim(s) 4-6 and 15-17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/12/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the computer readable code as stated by claims 23-45, the laptop computer, a personal digital assistance and the portable gaming device as stated in claims 11, 22, 33, and 44 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

In figure 3, #300 and 308.

6. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 23-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 23-45, the specification fails to provide an enabling disclosure of the computer readable codes since these computer readable codes, especially for claims 23-33 for each computer readable code has a specific function, is not disclose and only known to the inventor. In computer applications, it is not unusual for the claimed invention to involve two areas of prior art or more than one technology, e.g., an appropriately programmed computer and an area of application of said computer. *White Consol. Indus.*, 214 USPQ at 821. In regard to the "*skilled in the art*" standard, in cases involving both the art of computer programming, and another technology, the examiner must recognize that the knowledge of persons skilled in both technologies is the appropriate criteria for determining sufficiency. See *In re Naquin*, 398 F.2d 863, 158 USPQ 317 (CCPA 1968); *In re Brown*, 477 F.2d 946, 177 USPQ 691 (CCPA 1973); and *White Consol. Indus. v. Vega Servo-Control, Inc.*, 214 USPQ 796, 822 (S.D.Mich. 1982), *aff'd on related grounds*, 713 F.2d 788, 218 USPQ 961 (Fed. Cir. 1983). In a typical computer application, system components are often represented in a "*block diagram*" format, i.e., a group of hollow rectangles representing the elements of the system, functionally labeled, and interconnected

by lines. Such block diagram computer cases may be categorized into (A) systems which include but are more comprehensive than a computer and (B) systems wherein the block elements are totally within the confines of a computer.

The first category of such block diagram cases involves systems which include a computer as well as other system hardware and/or software components. In order to meet his or her burden of establishing a reasonable basis for questioning the adequacy of such disclosure, the examiner should initiate a factual analysis of the system by focusing on each of the individual block element components. More specifically, such an inquiry should focus on the diverse functions attributed to each block element as well as the teachings in the specification as to how such a component could be implemented. Based on such an analysis, the examiner has reasonably contend that more than routine experimentation would be required by one of ordinary skill in the art to implement such a component or components, that component or components is specifically be challenged by the examiner as part of this 35 U.S.C. 112, first paragraph rejection. Additionally, the examiner has determine whether certain of the hardware or software components depicted as block elements are themselves complex assemblages which have widely differing characteristics and which must be precisely coordinated with other complex assemblages. Under such circumstances, a reasonable basis does exist for challenging such a functional block diagram form of disclosure. See *In re Ghiron*, 442 F.2d 985, 169 USPQ 723 (CCPA 1971) and *In re Brown*, *supra*. Moreover, even if the applicants has

cited prior art patents or publications to demonstrate that particular block diagram hardware or software components are old, it should not always be considered as self-evident how such components are to be interconnected to function in a disclosed complex manner. See *In re Scarbrough*, 500 F.2d 560, 566, 182 USPQ 298, 301 (CCPA 1974) and *In re Forman*, 463 F.2d 1125, 1129, 175 USPQ 12, 16 (CCPA 1972). Furthermore, in complex systems including a digital computer, a microprocessor, or a complex control unit as one of many block diagram elements, timing between various system elements may be of the essence and without a timing chart relating the timed sequences for each element, an unreasonable amount of work may be required to come up with the detailed relationships an applicant alleges that he or she has solved. See *In re Scarbrough*, 500 F.2d at 566, 182 USPQ at 302. For example, in a block diagram disclosure of a complex claimed system which includes a microprocessor and other system components controlled by the microprocessor, a mere reference to a prior art, commercially available microprocessor, without any description of the precise operations to be performed by the microprocessor, fails to disclose how such a microprocessor would be properly programmed to either perform any required calculations or to coordinate the other system components in the proper timed sequence to perform the functions disclosed and claimed. If, in such a system, a particular program is disclosed, such a program should be carefully reviewed to ensure that its scope is commensurate with the scope of the functions attributed to such a program in the claims. See *In re*

Brown, 477 F.2d at 951, 177 USPQ at 695. Since, the disclosure fails to disclose any program and more than routine experimentation would be required of one skilled in the art to generate such a program, the examiner clearly has a reasonable basis for challenging the sufficiency of such a disclosure.

Regarding claims 23-33, a single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. *In re Hyatt*, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983). A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because the specification disclosed at most only those means known to the inventor. When claims depend on a recited property, a fact situation comparable to *Hyatt* is possible, where the claim covers every conceivable structure (computer readable code) for achieving the stated property (result) while the specification discloses at most only those known to the inventor. Also, A claim which omits matter disclosed to be essential to the invention as described in the specification or in other statements of record may be rejected under 35 U.S.C. 112, first paragraph, as not enabling. *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). See also MPEP § 2164.08(c). Such essential matter may include missing elements, steps or necessary structural cooperative relationships

of elements described by the applicant(s) as necessary to practice the invention.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 45 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A product-by-process claim, which is a product claim that defines the claimed product in terms of the process by which it is made, is proper. *In re Luck*, 476 F.2d 650, 177 USPQ 523 (CCPA 1973); *In re Pilkington*, 411 F.2d 1345, 162 USPQ 145 (CCPA 1969); *In re Steppan*, 394 F.2d 1013, 156 USPQ 143 (CCPA 1967). A claim to a device, apparatus, manufacture, or composition of matter may contain a reference to the process in which it is intended to be used without being objectionable under 35 U.S.C. 112, second paragraph, so long as it is clear that the claim is directed to the product and not the process. Also "the method" lacks antecedent basis.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1-3, 7-14, 18-25, 29-36, and 40-45 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by **Orsini, et al.**

A method for authenticating a mobile communication device ("One solution for increasing the security of the foregoing cryptographic systems is to include biometrics as part of the authentication or authorization. Biometrics generally include measurable physical characteristics, such as, for example, finger prints or speech that can be checked by an automated system, such as, for example, pattern matching or recognition of finger print patterns or speech patterns. In such systems, a user's biometric and/or keys may be stored on mobile computing devices, such as, for example, a smartcard, laptop, personal digital assistant, or mobile phone, thereby allowing the biometric or keys to be usable in a mobile environment.") to a wireless network ("Although the communication link 125 is disclosed in terms of its preferred embodiment, one of ordinary skill in the art will recognize from the disclosure herein that the communication link 125 may include a wide range of interactive communications

links. For example, the communication link 125 may include interactive television networks, telephone networks, wireless data transmission systems, two-way cable systems, customized private or public computer networks, interactive kiosk networks, automatic teller machine networks, direct links, satellite or cellular networks, and the like.”), comprising: transmitting from said wireless network to said MCD a first value (“44. A method, comprising: a) encrypting a data set to provide an encrypted data set; b) separating the encrypted data set into two or more portions of data according to the contents of a unique key value; c) encrypting one or more of the portions of data from step b); and d) storing the encrypted portions of data from step c) at one or more locations on one or more data depositories”); and receiving from said MCD at said wireless network a second value (“Another aspect of the invention includes a method of storing cryptographic data in geographically remote secure data storage facilities thereby protecting the cryptographic data against comprise of any individual data storage facility. The method comprises receiving cryptographic data at a trust engine, combining at the trust engine the cryptographic data with a first substantially random value to form a first combined value, and combining the cryptographic data with a second substantially random value to form a second combined value. The method also comprises creating a first pairing of the first substantially random value with the second combined value, creating a second pairing of the first substantially random value with the second substantially random value, and storing the first pairing in a first secure data storage facility. The method also

comprises storing the second pairing in a secure second data storage facility remote from the first secure data storage facility”), said second value representing a function of said first value, a shared data value that is stored in both said MCD and said wireless network (“The same set of actions would be done for each group, and each member within each group. When the maintenance program is complete, the Parser Group Master Key becomes a shared credential for each member of the group. Revocation of the assigned digital certificate may be done automatically when a user is removed from a group through the maintenance program without affecting the remaining members of the group”), and at least one metric (“Note that this reliability may be expressed in different manners. The reliability is desirably expressed in some metric which can be used by the heuristics 530 and algorithms of the authentication engine 215 to calculate the confidence level of each authentication. One preferred mode of expressing these reliabilities is as a percentage or fraction. For instance, fingerprints might be assigned an inherent reliability of 97%, while passwords might only be assigned an inherent reliability of 50%. Those of skill in the art will recognize that these particular values are merely exemplary and may vary between specific implementations.”) pertaining to an application program (“Although the authentication process 1000 is disclosed with reference to its preferred and alternative embodiments, the invention is not intended to be limited thereby. Rather, a skilled artisan will recognize from the disclosure herein, a wide number of alternatives for the

authentication process 1000. For example, the vendor may advantageously be replaced by almost any requesting application, even those residing with the user system 105. For example, a client application, such as Microsoft Word, may use an application program interface (API) or a cryptographic API (CAPI) to request authentication before unlocking a document. Alternatively, a mail server, a network, a cellular phone, a personal or mobile computing device, a workstation, or the like, may all make authentication requests that can be filled by the authentication process 1000. In fact, after providing the foregoing trusted authentication process 1000, the requesting application or device may provide access to or use of a wide number of electronic or computer devices or systems.") stored in said MCD.

Allowable Subject Matter

13. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

14. Claims 4-6 and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dobson discloses a method of sending data over an encrypted packet data communications network, in particular a digital mobile phone network such as a GPRS or 3G network, such that the sent data is readable without decrypting the encrypted packets, the method comprising, coding the data for sending as symbols selected from a set of symbols, each symbol of the set comprising at least one complete packet for encryption; and sending each said symbol over the packet data communications network. Corresponding methods of identifying packets carrying the sent data of recovering the data, and software and test equipment for implementing the methods are also described. The methods facilitate testing of a digital mobile phone network when traffic within the network is encrypted as the sent data may be recovered from a signal tapped at a point within the network without decrypting the data.

16. United States Postal Service Interruption and Emergency under 35 U.S.C.21(a)

The United States Patent and Trademark Office (USPTO) is designating the interruption in service of the United States Postal Service (USPS) in the areas affected by Hurricane Katrina in Louisiana, Mississippi, Alabama, and Florida on August 28, 2005, as a postal service interruption and an emergency within the meaning of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) and 2.195(e). Postal services in Louisiana, Mississippi, Alabama, and Florida have been suspended intermittently since Sunday, August 28, 2005, due to Hurricane Katrina. To determine whether a post office has been closed or postal services have been suspended in a particular area due to Hurricane Katrina, contact the post office directly or visit the USPS's Web site at: <http://www.usps.gov>.

As soon as the USPTO receives further information from the USPS as to when postal services in the affected areas will be resumed, the USPTO will post updated information regarding this situation on the USPTO Web site (<http://www.uspto.gov>) and in the Official Gazette.

17. United States Postal Service Interruption and Emergency under 35 U.S.C. 21(a)

The United States Patent and Trademark Office (USPTO) is designating the interruption in service of the United States Postal Service (USPS) in the areas affected by Hurricane Rita in Louisiana and Texas on September 23, 2005, as a postal service interruption and an emergency within the meaning of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) and 2.195(e).

Postal services in Louisiana and Texas have been suspended intermittently since Friday, September 23, 2005, due to Hurricane Rita. To determine whether a post office has been closed or postal services have been suspended in a particular area due to Hurricane Rita, contact the post office directly or visit the USPS's Web site at: <http://www.usps.gov>.

As soon as the USPTO receives further information from the USPS as to when postal services in the affected areas will be resumed, the USPTO will post updated information regarding this situation on the USPTO Web site (<http://www.uspto.gov>) and in the Official Gazette.

Patent-Related Correspondence

37 CFR 1.10(i) addresses interruptions or emergencies in USPS "Express Mail Post Office to Addressee" service that are designated by the Director for patent-related correspondence. Correspondence covered by 37 CFR 1.10 that would have been filed with the USPTO under 37 CFR 1.10 during this USPS service interruption, but which was not filed due to the USPS service interruption, should be filed promptly after the termination of the USPS service interruption with a petition in accordance with 37 CFR 1.10(i) using "Express Mail" service in accordance with 37 CFR 1.10.

The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) apply only to postal interruptions and emergencies. The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of an office or building other than a USPS facility. These provisions apply only if the post office was closed or "Express Mail" service suspended in the affected areas on the specified date due to Hurricane Rita.

37 CFR 1.10(i) provides that any person attempting to file correspondence by "Express Mail Post Office to Addressee" service that was unable to be deposited with the USPS due to an interruption or emergency in "Express Mail" service which has been so designated by the Director may petition the Director to consider such correspondence as filed on a particular date in the Office. 37 CFR 1.10(i) specifically provides that: any person attempting to file correspondence under this section that was unable to be deposited with the USPS due to an interruption or emergency in "Express Mail" service which has been so designated by the Director, may petition the Director to consider such correspondence as filed on a particular date in the Office, provided that:

- (1) the petition is filed in a manner designated by the Director promptly after the person becomes aware of the designated interruption or emergency in "Express Mail" service;

(2) the petition includes the original correspondence or a copy of the original correspondence; and

(3) the petition includes a statement which establishes, to the satisfaction of the Director, that the correspondence would have been deposited with the USPS but for the designated interruption or emergency in "Express Mail" service, and that the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date.

Patent-related inquiries concerning this notice may be directed to Eugenia Jones, Senior Legal Advisor in the Office of Patent Legal Administration, at (571) 272-7704 or at PatentPractice@uspto.gov.

Trademark-Related Correspondence

37 CFR 2.195(e) and 2.198 address interruptions or emergencies in USPS "Express Mail Post Office to Addressee" service that are designated by the Director for trademark-related correspondence. Correspondence covered by 37 CFR 2.198 that would have been filed with the USPTO under 37 CFR 2.198 during this USPS service interruption, but which was not filed due to the USPS service interruption, should be filed promptly after the termination of the USPS service interruption with a petition in accordance with 37 CFR 2.146 and 2.198.

The provisions of 35 U.S.C. § 21(a) and 37 CFR 2.195(e) apply only to postal interruptions and emergencies. These provisions do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of an office or building other than a USPS facility. These provisions apply only if the post office was closed or "Express Mail" service suspended in the affected areas on the specified date due to Hurricane Rita.

Under 37 CFR 2.195(e) and 2.198, any person attempting to file correspondence by "Express Mail Post Office to Addressee" service that was unable to be deposited with the USPS due to the interruption or emergency in "Express Mail" service in the areas designated in this notice may petition the Director to consider such correspondence as filed on a particular date in the Office. The petition must:

(1) Be filed promptly after the ending of the designated interruption or emergency in "Express Mail" service;

(2) Include the original correspondence or a copy of the original correspondence; and

(3) Include a statement which establishes, to the satisfaction of the Director, that (1) the correspondence would have been deposited with the USPS but for the designated interruption or emergency in "Express Mail" service, and (2) the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date.

Please note that under 37 CFR 2.101(b)(2), 2.102(a)(2) and 2.198(a)(1), the Express Mail procedures cannot be used for the following types of correspondence: applications for registration of marks; amendments to allege use under 15 U.S.C. § 1051(c); statements of use under 15 U.S.C. § 1051(d); requests for extension of time to

file a statement of use under 15 U.S.C. § 1051(d); affidavits of continued use under 15 U.S.C. § 1058; renewal applications under 15 U.S.C. § 1059; requests to change or correct addresses; combined filings under 15 U.S.C. §§ 1058 and 1059; combined affidavits or declarations under 15 U.S.C. §§ 1058 and 1065; responses to notices of irregularity under 37 CFR 7.14; requests for transformation under 37 CFR 7.31; notices of opposition to applications based on 15 U.S.C. § 1141f(a); and requests for extensions of time to oppose applications based on 15 U.S.C. § 1141f(a).

Moreover, 37 CFR 2.197 (certificate of mailing procedure) does not provide for according a filing date as of the date of deposit with the USPS. Therefore, it would be inappropriate to file a petition seeking a filing date as of the date of deposit of the types of correspondence listed in 37 CFR 2.101(b)(2), 2.102(a)(2) and 2.198(a)(1) as Express Mail, or as of the date on a certificate of mailing under 37 CFR 2.197.

Trademark-related inquiries concerning this notice may be directed to Mary Hannon, Office of the Deputy Commissioner for Trademark Examination Policy, at (571) 272-9569.

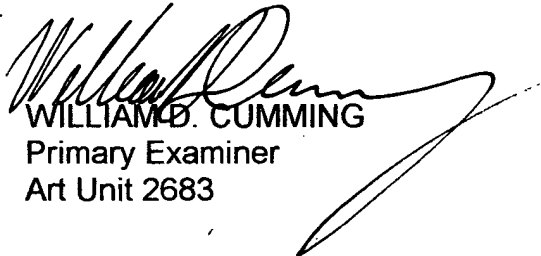
Date: 9/27/05 /S/

18. If applicants wish to request for an interview, an "*Applicant Initiated Interview Request*" form (PTOL-413A) should be submitted to the examiner prior to the interview in order to permit the examiner to prepare in advance for the interview and to focus on the issues to be discussed. This form should identify the participants of the interview, the proposed date of the interview, whether the interview will be personal, telephonic, or video conference, and should include a brief description of the issues to be discussed. A copy of the completed "*Applicant Initiated Interview Request*" form should be attached to the Interview Summary form, PTOL-413 at the completion of the interview and a copy should be given to applicant or applicant's representative.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **WILLIAM D. CUMMING** whose telephone number is 571-272-7861. The examiner can normally be reached on Monday-Thursday 11am-5:30pm.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


WILLIAM D. CUMMING
Primary Examiner
Art Unit 2683

Wdc



UNITED STATES
PATENT AND
TRADEMARK OFFICE

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